

Submitted for Approval: May 18, 2011

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – FEBRUARY 2, 2011**

CALL TO ORDER

Mayor/Chair Tate called the Joint Regular City Council and Redevelopment Agency meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members: Carr, Constantine, Librers, Siebert, Tate
Absent: Council Members: None

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Wilson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS / RECOGNITIONS / INTRODUCTIONS

Future Business Leaders of America week February 6 – 12, 2011, received by Chelsea and Chris from Live Oak High School.

CITY COUNCIL REPORT

Mayor Tate commended and thanked staff for their hard work creating the City Council Policy Background document.

He spoke about the League of California Cities training in Sacramento last week. It was a valuable experience.

He spoke to the massive deficit that Cal Train has and the possibility of losing services south of San Jose. There will be a meeting in Gilroy on February 17, 2011 at 6:00 pm. at 7371 Hanna Street at the Senior Center. He encouraged citizens to attend.

He advertised his "Coffee with the Mayor" takes place at 10:00 am on the second Saturday of the month at Hot Java.

On February 22, 2011 the State of the City Address will take place at the Community and Cultural Center.

Lastly he spoke about the Goal Setting Retreat. They had a very productive session. Item 12 on tonight's agenda will take place after the closed session.

CITY MANAGER REPORT

City Manager Tewes spoke regarding the two supplemental items.

CITY ATTORNEY REPORT

City Attorney Wan reported regarding the perchlorate condition in the City of Morgan Hill. The drinking water wells in Morgan Hill are regularly monitored and tested to make sure that the perchlorate levels are at a safe level for drinking. To the extent that there are wells at certain times of the year, the City has vigorously treated those wells to make sure that they are at safe levels. These efforts have cost the City, so we have filed a lawsuit against the Regional Water Quality Control Board for two purposes. First to make sure the Board is making Olin treat the water to the maximum extent legally required and also to make sure the City of Morgan Hill is properly mitigated in terms of our costs. That lawsuit has caused continuous negotiations between the City, the Regional Board and Olin to make sure that the interests of the City are taken care of as far as perchlorate cleanup. He reported the recent developments in the negotiations; 1. The regional board is now ready to issue its final order to Olin to pump the water out of the south aquifer and treat the water to free it of perchlorate and then pump the water back in. 2. The Regional Board has given the understanding to the City that we may discontinue the use of the Tennant well saving that cost to the City. 3. The Regional Board will make Olin continue to monitor whether the perchlorate contaminates other wells in Morgan Hill.

OTHER REPORTS

No reports

PUBLIC COMMENT

Jon Hatakeyama and Claudia Rossi spoke regarding the Teacher Aid Coalition, Chocolate and Wine for Valentines Fundraiser.

Anonymous spoke regarding chemtrails.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Action: *On a motion by Council/Agency Member Siebert and seconded by Council/Agency Member Carr Adopting the Agenda with item 12 to be heard after the closed session items. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 1-5

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Librers **Approving** the City Council and Redevelopment Agency Consent Calendar Items 1 through 6. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

1. **LETTER TO COUNTY CONCERNING FY 10-11 STATE BUDGET TAKEAWAY OF REDEVELOPMENT AGENCY TAX INCREMENT**

Recommended Action(s): **Approve** letter to County Auditor in accordance with Health and Safety Code section 33690(d).

2. **ACCEPT 2010 WELL ABANDONMENT PROJECT**

Recommended Action(s):

1. **Accept** as complete the 2010 Well Abandonment project in the final amount of \$52, 461; and
2. **Direct** the City Clerk to file the attached Notice of Completion with the County Recorder's Office.

3. **EMERGENCY AUTHORIZATION FOR ROADWAY RELATED REPAIR EXPENDITURE CAUSED BY THE JANUARY 7, 2011 WATER MAIN BREAK**

Recommended Action(s):

1. **Adopt** Resolution 6392 declaring a need for this emergency expenditure; and
2. **Appropriate** \$11,600 from the Water Operation Fund (650) to cover these unexpected and emergency expenses.

4. **ACCEPT THE EAST DUNNE AVENUE – HILL ROAD STORM IMPROVEMENTS PHASE II PROJECT**

Recommended Action(s):

1. **Accept** as complete the East Dunne Avenue – Hill Road Storm Improvements Phase II Project in the final amount of \$607,086; and
2. **Direct** the City Clerk to file the attached Notice of Completion with the County Recorder's office.

5. **ADOPT ORDINANCE NO. 2001, NEW SERIES AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MC-04-26: COCHRANE-MISSION RANCH BY MODIFYING THE BMR REDUCTION PROGRAM DATES, NUMBER OF BMRS PER PHASE AND REDUCING THE NUMBER OF ALTERNATE GARAGE PLACEMENTS TO ALLOW FOR THE INCORPORATION OF VISITABILITY UNITS. (APNs 728-32-001, 002, 003 & 728-33-001)**

Recommended Action(s): **Waive** the reading, and **Adopt** Ordinance No. 2001, New Series, and declare that said Title, which appears on the Agenda, shall be determined to have been read by Title and further reading waived.

Redevelopment Agency Action

CONSENT CALENDAR: **ITEMS 6-7**

6. **SOURCE OF FUNDS TO PAY FY 10-11 STATE BUDGET TAKEAWAY OF REDEVELOPMENT AGENCY TAX INCREMENT**
Recommended Action(s): Adopt Resolution MHRA-331 authorizing borrowing \$1,825,339 to be allocated to the low and moderate income housing fund for FY 10-11, for the Supplemental Educational Revenue Augmentation Fund (SERAF) payment, and making a finding pursuant to Health and Safety Code section 33690(c).
7. **A GRANT TO FUND IMPROVEMENTS TO BOOKSMART THIRD STREET FAÇADE AND PATIO**
Recommended Action(s): Adopt a Resolution authorizing the Executive Director to do everything necessary to prepare and execute documents required for a grant, subject to the review by the City Attorney, with Llagas Valley Investments, LLC in an amount not to exceed \$140,000 for the purpose of improving the Booksmart building façade and create an outdoor patio along Third Street.

City Council and Redevelopment Agency Action

CONSENT CALENDAR: **ITEM 8**

8. **POTENTIAL EQUIPMENT PURCHASE – IPADS FOR PAPERLESS AGENDA PROCESS**
Recommended Action(s):
1. **Authorize** staff to participate in Granicus iLegislate Pilot Project for City Council electronic agenda packets in lieu of paper packets; and
 2. **Approve** \$3,360 budget amendment for City Council Computer Hardware Non-Capital (010.1100.42245).

Redevelopment Agency Items pulled for discussion

7. **A GRANT TO FUND IMPROVEMENTS TO BOOKSMART THIRD STREET FAÇADE AND PATIO**
Recommended Action(s): Adopt a Resolution authorizing the Executive Director to do everything necessary to prepare and execute documents required for a grant, subject to the review by the City Attorney, with Llagas Valley Investments, LLC in an amount not to exceed \$140,000 for the purpose of improving the Booksmart building façade and create an outdoor patio along Third Street.

Senior Project Manager Dumas presented the staff report.

Council Member Siebert asked is there any requirement as part of this grant that a dining operation take place; Senior Project Manager Dumas stated the typical façade grant wouldn't; this is a custom agreement that we could modify the terms to include such a clause.

Council Member Constantine asked for detail regarding the option to purchase; City Manager Tewes stated that about a year ago the RDA entered into an option to purchase agreement. In exchange for that option we did pay the option and the total cost at the time was less than the appraised amount.

Council Member Constantine asked if it is possible to get the final out of pocket price that we will be paying taken into account when we purchase this. Can we add a clause to the contract that gives the City a subsidy for the amount that we have put into the project; City Manager Tewes clarified are you asking that we revise that agreement so as to reduce the purchase price in the event that these improvements were made. It is possible but it requires both parties to agree and it may be difficult to get the property owner to agree.

In response to Council Member Constantine's comment, so we could be paying for this twice; City Manager Tewes stated yes, that is the irony as it would be a temporary investment.

Council Member Librers asked why it was changed to 30 years; Senior Project Manager Dumas stated that the life of the façade improvements was approximately 30 years long, so we made the life of the agreement the same.

In response to Council Member Siebert clarifying we have a fixed price option now and this does not cause us to pay more, this is an investment that we may never see a return on; City Manager Tewes stated that is correct.

Mayor Tate opened the public comment at 7:32 pm.

Frank Manocchio shared his concern that the Third Street Promenade is supposed to stimulate growth. Now we have the RDA stimulating growth, we are subsidizing a private business. He asked why we are giving them money to expand their business. In terms of fairness, what is to keep the other businesses that are close in proximity from coming to the City to ask for money? He concluded that this is a huge mistake.

David Frazer commented that he is a big supporter of Booksmart. He feels that this is a situation where Morgan Hill is not in a position to give a private business \$140,000. He does not think that it is the City Council or RDA's responsibility to give the tax payer's money as a gift to a private business. He feels that the justifications have been interpreted loosely.

Hearing no further requests to speak the public comment was closed at 7:39 pm.

Council Member Carr shared that the dollars that are being proposed for this project cannot be put into the general fund and we cannot use them for operational dollars. What they can be used for however is to try and invest in our community to generate more sales tax that goes directly to the general fund. That is exactly why we have a redevelopment agency. We have a façade improvement grant program that we have used to the benefit of several businesses in Morgan Hill. It is not new; it is unique that we are looking at this large dollar amount for one single business. The agreement will be customized to this particular situation. He feels that it is a good idea and if we do not make this decision that it will not happen. He feels that it is a good investment for us that will have return in the future.

Council Member Librers concurred with Council Member Carr. We have a beautiful third street and the back of booksmart is kind of shabby. We have these dollars that do not come out of the general funds, we can't do a lot of things with that money but one of the things we can do is help to improve properties.

Council Member Siebert proposed that we structure the agreement so that 20% of the money be granted for designs and exploration and reserve the remaining part of the grant until a vendor is available to take over the operation. He feels that this is a situation that if we build it they will come. He commented that he takes offense to the fence on Third Street.

Council Member Librers asked how Council Member Siebert came up with the 20%; Council Member Siebert stated based on his experience. The City could then tailor the specifics.

Council Member Librers shared her concern that they will have to keep coming back to Council needing more money. She wants to make sure that if we go that way that there are sufficient funds up front.

Senior Project Manager Dumas stated that \$30,000 is adequate to come up with the construction drawings and design.

Council Member Librers asked would we come back a second time to approve the rest of the grant; City Manager Tewes suggested the idea of linking the grant to an actual operator. He continued that we should come back in two weeks with a more flushed out response to those questions.

Mayor Tate believes in the power of the RDA to do infrastructure improvements that will make businesses thrive. We came up with façade grant program that does that but it asks the owners to put some skin in it. He is bothered that the owners are not matching the funds at all. We want to capitalize on what Third Street has done for us. He supports this but he has reservations about this being a little bit more singling out businesses.

***Action:** On a motion by Agency Member Siebert and seconded by Agency Member Constantine Tabling this item to the February 23, 2011 City Council and Redevelopment Agency Meeting. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

City Council and Redevelopment Agency Items Pulled for Discussion

8. POTENTIAL EQUIPMENT PURCHASE – IPADS FOR PAPERLESS AGENDA PROCESS

Recommended Action(s):

1. **Authorize** staff to participate in Granicus iLegislate Pilot Project for City Council electronic agenda packets in lieu of paper packets; and
2. **Approve** \$3,360 budget amendment for City Council Computer Hardware Non-Capital (010.1100.42245).

Mayor Tate feels that the device is fantastic. The application is great but right now it does not have the capabilities of highlighting or note taking on the attachments.

Council Member Librers commented that she would rather let someone else be a part of the pilot program. She commented that it didn't meet her needs for the meeting. At this point she doesn't support this. She concluded that it is not going to do us any good.

Council Member Carr commented that we all like the goal of eliminating paper. He is hesitant, but willing to try going paperless. He is fine with waiting except that we are at a place that we need to invest in a copier and we will spend twice as much in capital costs rather than investing in new technology that makes us more efficient. He is willing to try this technology and is willing to commit to using the technology. If it is something that we are not committed to doing then we shouldn't move forward at this time.

Council Member Siebert commented that he would like to reduce the amount of paper. He would be happy to bring in his laptop. He would still like staff to come back with something that could be an alternate to the printing and binding.

Mayor Tate believes that this application is the right one to address our needs he just doesn't want jump on board until it has the capabilities to meet our needs.

Confidential Administrative Assistant Wilson stated the estimate to get a copier that would suit City Hall's needs by going with the paperless agenda, would be about \$7,000; if we replace the copier with all of the functionality that we currently have it would be about \$17,000.

Mayor Tate opened the public comment at 7:57 pm.

Frank Manocchio spoke in opposition of this item.

Hearing no further requests the public comment was closed at 7:59 pm.

Council Member Constantine shared that it doesn't sound like it is ready. He continued that it pains him to not be able to save not only all of the money we would save, but the impact on the environment that we would be mitigating by going this direction. He does not support this item because he believes that until we get something that meets all of our needs we shouldn't spend the money.

Mayor Tate feels that this is the right answer. His hope is that we can wait 6 months and see where it is at then.

Council Member Librers commented that she does not have her own laptop and that is a concern. The iPad is much less expense than a laptop.

Council Member Constantine recognized the amount of work staff puts in to create one of these agendas. He is also sorry that we cannot move forward with this to mitigate the amount of work that our diminished staff has to put in to complete the agendas.

Mayor Tate asked Ms. Wilson to keep in touch with Granicus and when they think it is ready we can revisit this item.

Council Member Carr commented that as council members we are going to have to take a leap and try the new technology and try things that we have not tried before. We must all be willing to put in the time and effort to get used to use it. He too does not have his own laptop and the technology of what we have didn't work. It appears that this technology would save us a significant amount of money.

No action required.

Mayor Tate called recess at 8:04 p.m. and reconvened the meeting at 8:11 p.m.

City Council Action

OTHER BUSINESS:

ITEMS 9-12

9. MORGAN HILL YOUTH SPORTS ALLIANCE OUTDOOR SPORTS CENTER SIX MONTH REPORT

Recommended Action(s): Receive the Morgan Hill Youth Sports Alliance Outdoor Sports Center Six Month Report.

Recreation and Community Services Director Rymer presented the staff report. Jeff Dixon with Morgan Hill Youth Sports Alliance (MYSA) continued the presentation.

Council Member Constantine thanked Mr. Dixon for giving him a tour of the facility. He asked if the report was just a status report and if that is why it doesn't have a lot of detail; Mr. Dixon stated that as part of our proposal we were going to keep the pricing the same for the first six months. We also extended the prices for home field partners for an additional six months.

In response to Council Member Constantine asking if they are going by the fiscal year; Mr. Dixon stated that is correct and the year to date is December.

In response to Council Member Librers regarding page 52 in packet, asking can we get a more detailed financial report; Mr. Dixon stated we do not keep our books that way. He continued that they would be completing that information on April 30, 2011 when they complete their audit.

Council Member Librers asked to have it noted that she would like a copy of the detailed expense and revenue in a future staff report.

Council Member Librers asked have you secured a 501C3 status; Mr. Dixon stated no we have not. WE are 501C4 and always have been. The 501C3 would be required in year two when we start applying for grants and sponsorships.

In response to Council Member Librers comment so you haven't gone out and looked for the big sponsor; Mr. Dixon stated those relationships take time to build. We have spoken to several groups in terms of long term sponsorships.

Council Member Librers asked does this budget include in kind donations in your revenue; Mr. Dixon stated if you look at the home field partner program, we outlined what each organization contributed.

In response to Council Member Librers question did those figures get shown in this budget document; Mr. Dixon stated yes they are.

The public comment was opened at 8:35 pm. Hearing no request to speak the public comment was closed at 8:35 pm.

Council Member Carr commented that he is very pleased with the report and thanked everyone for their hard work. We have achieved the goals we set out when we first explored having someone else operating the center and we are bringing in revenue for the first time. He was very excited to see the MYSA's next steps and how we are preparing for year two. He is pleased to see how MYSA has expanded the local youth involvement while holding onto the regional tournaments.

Council Member Librers commended the MYSA on thinking outside the box and thinks it is very exciting for our community.

Council Member Siebert commented that the youth of our community and the region are getting the benefit of all the hard work that MYSA has done.

Mayor Tate commented that with our Recreation Department we seem to be building relationships that are mutually beneficial and strong. Our partnership with the YMCA we really pushed the 41 developmental assets and we need to get that worked in.

Mr. Dixon commented that the MYSA has spoken to the YMCA about the 41 developmental assets.

No Action taken.

10. **AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CHAPTER 5.32 (MASSAGE ESTABLISHMENTS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL RELATED TO MASSAGE ESTABLISHMENTS**

Recommended Action(s):

1. **Open/close** the public meeting; and
2. **Adopt** the Ordinance amending Chapter 5.32 of the Morgan Hill Municipal Code.

Captain Sampson presented the staff report.

City Attorney Wan made a correction to the required action for this item.

Mayor Tate opened the public comment at 8:47 pm. Hearing no requests to speak the public comment was closed.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Constantine **Waiving** the first and second reading of Ordinance 2002. The motion passed by the following vote: Ayes: 5; Noes: 0, Absent: 0.*

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Constantine **Introducing** Ordinance 2002 (An Ordinance of the City Council of the City of Morgan Hill amending Chapter 5 32 (Massage Establishments) of the Municipal Code of the City of Morgan Hill related to Massage Establishments. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

11. COUNCIL COMMITTEES & OUTSIDE AGENCY ASSIGNMENTS

Recommended Action(s):

1. **Review** and **Confirm** the list of assignments and appointments as discussed at the January 28 and January 29, 2011 City Council Goal Setting Workshop; and
2. Mayor to **Appoint** Council Members to committees and outside agency assignments, subject to Council approval; and
3. **Direct** the City Clerk to notify the appropriate agencies of amended assignments.

Committee/Outside Agency

Assignments

Airport Land Use Committee

(P) Tate
Proxy: David Sloan

Association of Bay Area Governments
(ABAG)

(P) Tate
(A) Carr

City/School Liaison Committee
Morgan Hill Unified School District

(P) Carr
(P) Tate
(A) Constantine

Corporation Yard Commission

(P) Tate
(P) Librers

League of California Cities Liaison
Peninsula Division

(P) Tate
(A) Carr

Pajaro River Watershed Flood Prevention Authority

Santa Clara County Cities Association Board
(Mayor Pro Tem-Alternate)

(P) Tate
(A) Carr

Santa Clara County Cities Association
City Selection Committee
(Mayor Pro Tem-Alternate)

(P) Tate
(A) Carr

Santa Clara County Emergency Preparedness Council

(P) Constantine
(A) Tate

Santa Clara County Habitat Conservation Plan/Natural
Community Conservation Plan

(P) Tate
(A) Librers

Santa Clara County Housing & Community
Development Council Committee

(P) Carr
(A) Librers

Santa Clara County Library District Joint
Powers Authority

(P) Tate
(A) Carr

Santa Clara Valley Transportation Authority Board of
Directors

(P) Represented by Gilroy (Woodward)

Committee/Outside Agency

Assignments

Santa Clara Valley Transportation Authority
MGM Group 4; VTA Board Representative

(P) Carr
(A) Constantine

Santa Clara Valley Transportation Authority
Caltrain Policy Advisory Board (PAB)

(P) Carr
(A) Constantine

Santa Clara Valley Transportation Authority
Policy Advisory Committee (PAC)
South County Roadways Policy Advisory Board

(P) Carr
(A) Constantine
(P) Carr
(A) Constantine

Santa Clara Valley Water Commission

(P) Constantine
(A) Carr
(A) Bjarke

Santa Clara Valley Water District Elected
Officials Quarterly Meeting (PL 566)

(P) Tate
(A) Carr

Santa Clara Valley Water District -
Coyote Flood Control & Water Advisory Committee

(P) Siebert

Santa Clara Valley Water District -
Uvas/Llagas Flood Control & Water Advisory Committee

(P) Siebert

South County Joint Planning Advisory Committee

(P) Siebert
(A) Librers

South County Regional Wastewater Authority
(SCRWA)

(P) Siebert
(P) Carr
(A) Librers
(A) Constantine
(A) Tate

City Council and Redevelopment Agency Action
CLOSED SESSION:

City Attorney Wan read the closed session item into the record.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority:	Pursuant to Government Code 54956.9(a)
Case Name:	Tichinin v. City of Morgan Hill
Case Number:	Santa Clara Superior Court Case No. 1-05-CV-046112
Attendees:	City Manager; City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Tate opened the public comment for closed session items at 9:05 pm.

Frank Manocchio asked what percentage of downtown property the RDA already owns and with the Sunsweet purchase what would that increase the percentage to? Why is the RDA or City stockpiling land that would not be developed for 5 to 10 years? He concluded that he would like to hear the reasoning.

Hearing no further requests to speak the public comment was closed.

ADJOURN TO CLOSED SESSION

Mayor/Chair Tate adjourned the meeting to Closed Session 9:08 p.m.

CLOSED SESSION ANNOUNCEMENT

City Manager Tewes announced that no reportable action was taken in Closed Session.

RECONVENE

12. COUNCIL GOALS

Recommended Action(s): Review the results of Council Goal Setting Workshop.

***Action:** On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Constantine **Adopting** the City Council's Strategy, Policies and Goals for 2011. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

None

ADJOURNMENT

There being no further business, Mayor/Chair Tate adjourned the meeting at 10:46 p.m.

MINUTES RECORDED AND PREPARED BY:



Michelle Wilson, Minutes Clerk